

ASH GROVE CEMENT COMPANY



11011 CODY
OVERLAND PARK, KS 66210
PHONE 913 / 451-8900 FAX 913 / 451-1686

STEVE MINSHALL, CIH, CSP
CORPORATE HEALTH AND SAFETY MANAGER

WRITER'S DIRECT LINE – 913/319-6064

June 29, 2006

Office of Standards, Regulations and Variances
Mine Safety and Health Administration
U.S. Department of Labor
Room 2350
1100 Wilson Boulevard
Arlington, VA 22209-3939

Re: RIN 1219-AB46

Dear Sir or Madam:

I am writing on behalf of Ash Grove Cement Company regarding the Emergency Temporary Standard for Emergency Mine Evacuation. While the Portland Cement Association previously submitted comments, with which we agree, a recent event occurred that makes our position in opposition to the across-the-board 15-minute immediate notification requirement even more compelling.

On June 25, 2006, around 1:30 A.M., a small fire occurred in a substation at an Ash Grove plant in MSHA's Western district; this fire ultimately took approximately 1.5 hours to extinguish but it posed no threat to life and it did not threaten to spread to any adjacent structures. The fire was put out by the local utility company.

A plant supervisor initiated a call to MSHA's Western District office shortly after discovering the fire; the call was actually placed well before the 30 minutes that triggers notification to MSHA that a fire-related "accident" has occurred.

The compelling portion of this story, and the part that underscores our opposition to the across-the-board requirement to notify MSHA of any accident within 15 minutes, is that the supervisor had to remain on the phone for **45 minutes** in order to make the official notification.

Apparently the supervisor reached an answering service when he placed the initial call to the MSHA District Office. The person who answered the phone listened to the supervisor's description of the situation, asked if this was an emergency call, to which he replied "yes," and then our supervisor was put on hold for 10 minutes. When the person came back on the line, it was as if she had not heard any of the description and she asked our supervisor to repeat everything he had previously told her about the incident. Part way through the description, she told our supervisor that she was not the right person to speak with and that he would have to

speak with another person. He was put on hold again for a short time. When the next person came on the line, that person spoke so fast that our supervisor was unable to get his name, even though he asked for it twice.

Our supervisor was given another person's name (an official from the District Office) and a number to call. When our supervisor called the number, he got a woman at a gold mine; this woman could not understand why our supervisor had been given her number to call. However, she did happen to have a cell phone number for the MSHA District Office official and she gave that to our supervisor. Our supervisor did finally make contact with the official and reported the fire. As I mentioned, this took **45 minutes** to accomplish.

Though it is certainly not our intention to embarrass anyone, this situation reinforces our position that, in above ground, metal / nonmetal mines, the initial, crucial minutes of an emergency are best dealt with by contacting the appropriate local emergency response agencies. Surely, it is apparent that our supervisor's time could have been much better spent in dealing with the situation at hand and not with the red tape of a notification system that was not designed, staffed or equipped to deal expeditiously with the kinds of accidents that occur at above ground, metal / nonmetal mines.

As MSHA acknowledges in the Federal Register notice, emergencies and accidents are unpredictable in their timing and severity. That being said, MSHA must also recognize that not every emergency or accident will occur on the day shift, when staffing levels at the mine are typically at their highest and there are plenty of people to help in an actual emergency. Emergencies and accidents will sometimes occur at 1:30 a.m., as in our case, and it will seriously and potentially dangerously, stretch thin the minimal human resources that are present, and actually capable of responding in a timely manner to the event, if a key person has to spend an inordinate amount of time on the phone attempting to meet a legal obligation to make a notification.

Therefore, Ash Grove Cement Company asks that MSHA respect the direction provided by the recently passed MINER Act, and limit the 15-minute immediate notification requirement to the criteria spelled out in the Act: a death, entrapment or a serious injury with the reasonable potential to result in death. MSHA needs to acknowledge its own limitations (inadequate staffing, equipment, funding) in being able to effectively respond to other types of accidents at above ground, metal / nonmetal properties. The Agency needs to grant companies additional time to handle the tumultuous first minutes during the onset of an emergency or accident and allow them the time and latitude to contact local emergency services who can effectively respond to the kinds of emergencies that are likely to occur at metal / nonmetal mines. Ash Grove asks that MSHA allow 60 minutes for the notification of all other types of accident categories not covered in the MINER Act.

Thank you for this opportunity to submit comments on a regulation that will affect the mining industry for years to come.

Sincerely,



Steve Minshall, CIH, CSP